

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In Re:

Michael A. Jestus,

Case No. BKY-04-43115-NCD

Debtors,

Kimberly Jestus, Individually,  
and as Trustee for the  
Estate of Grant Allen Jestus,

**COMPLAINT**

Plaintiff,

vs.

Michael A. Jestus,

Defendant.

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For her complaint against Defendant, Michael A. Jestus, Plaintiff Kimberly Jestus, individually, and as Trustee for the Estate of Grant Allen Jestus states:

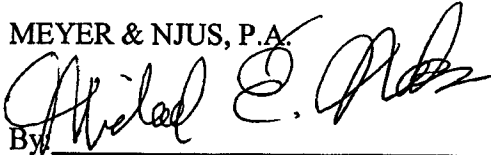
1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. § 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I).
2. Defendant is a debtor in Case No. BKY-04-43115-NCD commenced on June 2, 2004, pursuant to debtor's voluntary petition under Bankruptcy Code Chapter 7 filed in this Court. This case is pending in this Court under Chapter 7.
3. Plaintiff is the former spouse of Defendant and has been listed as a creditor.
4. Debtor, Defendant, has not listed the specific debts due Plaintiff or amended the Schedules to reflect the specific debts due Plaintiff for which he seeks a discharge. Plaintiff was not listed in the original Petition as a creditor. Plaintiff was added as a creditor in late July, 2004.

5. Plaintiff brings this action seeking a determination that debtor's obligations to her are not dischargeable under 11 U.S.C. § 523(a)(5), 11 U.S.C. § 523(a)(9), and 11 U.S.C. § 523(a)(15).
6. Plaintiff brings this Complaint seeking a determination of the Court that Defendant's attempts to discharge any legal liability from the wrongful death of Grant Allen Jestus, occurring on or about May 24, 2003, are non-dischargeable because the death caused by Defendant's operation of his boat was unlawful because Defendant was intoxicated from using alcohol, a drug, and/or another substance.
7. Plaintiff further brings this Complaint seeking a determination of the Court that Defendant's attempts to discharge liability for obligations which arise under that certain divorce decree filed in Anoka County on January 29, 2003. Plaintiff, in her individual capacity, was the Petitioner in said divorce and debtor was the Respondent in the divorce. Besides orders of support for children, Respondent was also ordered to pay Petitioner, Kimberly Jestus, One Thousand Five Hundred Forty Five and 52/100th Dollars (\$1,545.52) on or before January 29, 2004. Debtor has failed to make such a payment.
8. Defendant's discharge of said obligations to Petitioner individually and in her capacity as Trustee would not result in a benefit to him that would outweigh the detrimental consequences to Plaintiff in her capacity as trustee for the Estate of Grant Allen Jestus or in her individual capacity within the meaning of the objections to discharge noted herein.

WHEREFORE, Plaintiff Kimberly Jestus prays that this Court make its Order determining that Defendant's said obligations to her individually and in her capacity as Trustee are not included in any discharge otherwise granted to Defendant in his bankruptcy case.

Dated: 8/27/04

MEYER & NJUS, P.A.

By 

Michael E. Marks (#164616)  
1100 Pillsbury Center  
200 South Sixth Street  
Minneapolis, MN 55402  
(612) 630-3240

ATTORNEYS FOR PLAINTIFF

**UNITED STATES BANKRUPTCY COURT — DISTRICT OF MINNESOTA  
LOCAL ADVERSARY PROCEEDING COVER SHEET**

ADVERSARY PROCEEDING NUMBER (COURT USE ONLY)

PLAINTIFFS (Name and address)

Kimberly Jester  
individually and as  
trustee

DEFENDANTS (Name and address)

Michael Jester  
1219 9<sup>th</sup> Ln. NE  
Blaine, MN 55434

ATTORNEYS (Name, firm name, address, telephone)

Michael E. Marks  
Meyers & Marks  
5th 1100 Pillsbury Ctr.  
200 S. 6th St  
Minneapolis, MN  
55402  
(612) 630-3240

ATTORNEYS (Name, firm name, address, telephone)

April Little  
Prescott & Pearson  
Box 120088  
New Brighton, MN  
55112  
(651) 633-2757

PARTY (Check one box only)

☒ 1 U.S. PLAINTIFF

☐ 2 U.S. DEFENDANT

☐ 3 U.S. NOT A PARTY

NATURE OF SUIT (Check ALL appropriate boxes.)

- ☒ 426 Complaint to determine dischargeability of one debt under § 523.  
☐ 459 Notice Of Removal to remove this action to the Bankruptcy Court under § 1452.  
☐ 424 Complaint to deny or revoke a discharge of all debts of the debtor under § 727.

- ☒ 454 Recover Money or Property    ☐ 458 Sale of co-owner's interest    ☐ 435 Determine Validity, Priority, or Extent of a Lien    ☐ 455 Revoke confirmation of a Plan  
☐ 434 Obtain an injunction    ☐ 456 Declaratory judgment    ☐ 457 Subordinate allowed claim    ☐ 498 Other (specify)

CAUSE OF ACTION (IF UNCERTAIN ABOUT WHICH BOX TO CHECK, BRIEFLY STATE THE CAUSE OF ACTION AND THE STATUTE INVOLVED.)

ORIGIN OF PROCEEDINGS

☒ 1 Original Proceeding

☐ 2 Removed Proceeding

☐ 3 Reinstated or Reopened

☐ 4 Transferred from Another Bankruptcy Court

☐ CHECK IF THIS IS A CLASS ACTION

DEMAND

\$

OTHER RELIEF SOUGHT

In excess of \$50,000  
bodily injury & child support

☐ JURY DEMAND

BANKRUPTCY CASE NUMBER

04-43115

DEBTOR

Michael Jester

DISTRICT AND DIVISION IN WHICH CASE IS PENDING

Minneapolis

NAME OF JUDGE Dreher

RELATED ADVERSARY PROCEEDING (IF ANY)

PLAINTIFF

DEFENDANT

ADVERSARY PROCEEDING NUMBER

DISTRICT

DIVISIONAL OFFICE

NAME OF JUDGE

FILING FEE (Check one box only)

☐ FEE ATTACHED

☐ FEE NOT REQUIRED

☐ FEE DEFERRED

DATE

8/27/04

PRINT NAME

Michael E. Marks

SIGNATURE OF ATTORNEY (OR PLAINTIFF)

Michael E. Marks